

April 18,2007

Chairman Kevin Martin
Commissioner Jonathan Adelstein
Commissioner Michael Copps
Commissioner Deborah Tate
Commissioner Robert McDowell
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WT Docket No. 06-150 (Service Rules for the 700 MHz Commercial Bands)

Dear Chairman Martin, Commissioner Adelstein, Commissioner Copps, Commissioner Tate, and Commissioner McDowell:

On behalf of the below listed members of the coalition supporting the 700 MHz Balanced Consensus Spectrum Band Plan (“Balanced Consensus Plan”) for the 700 MHz commercial spectrum, we are filing this *ex parte* letter to express our grave concerns over recent reports of a band plan for the 700 MHz commercial band that is expressly contrary to the recommendations of this broad coalition.

The Balanced Consensus Plan was filed with the Commission by a group of 21 interested parties reflecting a broad cross section of industry representatives including large regional carriers, mid sized carriers, rural carriers, independent telephone companies, rural associations and state agencies.’ In addition, the Balanced Consensus Plan has garnered direct and indirect support from other commenting parties’ and from members of Congress.

Recent reports regarding the proposed 700 MHz band plan, which we understand will be considered at the next meeting of the Commission, indicate that the proposed plan fails to embody several core elements of the Balanced Consensus Plan. If the reports are accurate, only one paired frequency block in the lower 700 MHz band has been designated for licensing in a geographic area smaller than a Regional Economic Area Grouping (“REAG). Although the proposed plan apparently includes a frequency block to be assigned on an Economic Area (“EA”) basis, this frequency block would be an unpaired lower 700 MHz band frequency block which is not of primary interest to the proponents of the Balanced Consensus Plan. Indeed, none of the proponents of the Balanced Consensus Plan proposed that the unpaired frequency block be assigned on a basis other than on a REAG basis. So, this EA frequency block offers little if any opportunity to the coalition of regional and rural carriers, associations and public service commissions that support the balanced consensus plan.

¹ See Attachment A for a list of the members of the coalition supporting the Balanced Consensus Plan.

² For example, T-Mobile, SpectrumCo, and Frontline Wireless submitted comments consistent with this approach of smaller geographic license areas for the 700 MHz commercial spectrum.

Reports also suggest that the draft of the proposed 700 MHz band plan does not subdivide the 20 MHz upper band frequency block into smaller license blocks (two 10 MHz licenses), as suggested by the coalition members. This is particularly troubling in light of persistent reports that the Commission is seriously considering taking comment on the Frontline proposal. If the Frontline proposal or any variation thereof is adopted, it will reduce from 60 MHz to 50 MHz the amount of spectrum likely to be of interest to the proponents of the Balanced Consensus Plan. If the Commission fails to subdivide the 20 MHz upper 700 MHz band frequency block, and fails to license it on a smaller than REAG basis, proponents of the Balanced Consensus Plan will be relegated to seeking spectrum only in the lower band. And, if one of the two lower band paired blocks is licensed on a REAG basis, the number of paired frequency blocks suited to the needs of applicants seeking to provide more localized services will be reduced to one.

The draft of the proposed 700 MHz band plan, as we understand it, substantially deviates from the band plan utilized for the advanced wireless services (“AWS”) auction, where over half of the spectrum was licensed on a combined Cellular Market Area (“CMA”) and EA basis. The success of the AWS auction is in no small part due to the significant opportunities available to applicants like the proponents of the Balanced Consensus Plan.

A number of the proponents of the Balanced Consensus Plan have been active participants in the recent broadband spectrum auctions, and our continued interest in acquiring additional broadband paired spectrum is evidenced by our active participation in this 700 MHz band plan proceeding.

To address our concerns, we ask the Commission to ensure that the proposed 700 MHz band plan includes the following elements:

1. In the lower band, license one paired frequency block on a CMA basis, and one paired frequency block on a EA basis. The remaining unpaired spectrum should be licensed on a REAG basis (this spectrum is already licensed on an economic area grouping (“EAG”) basis in the current rules).
2. In the upper band, subdivide the 20 MHz frequency block into two 10 MHz paired frequency blocks.
3. After subdividing the upper band frequency block, make one of the two subdivided frequency blocks available on a geographic area smaller than a REAG.³

We note that the plan proposed in this letter still will enable carriers who seek licenses serving larger areas or containing greater bandwidth to aggregate licenses in the auction by bidding on contiguous spectrum in contiguous areas. In addition, this plan would make roughly half of the licenses available on a CMA or EA basis, similar to the successful AWS band plan. We also believe such a band plan would fulfill the Commission’s statutory obligation to make services available for rural and small businesses.

³ The Balanced Consensus Plan advocated allocating two CMA frequency blocks, one of which would be in the upper band.

Lastly, if the Commission deems it necessary to put out the current draft of the band plan for further comment, it should not endorse such plan as a “tentative conclusion.” The Commission should take comment and create a record on any such band plan proposal without prejudicing the outcome.

This is a matter of great importance to the undersigned given the unique technical attributes of the 700 MHz band which make it ideally suited to serve many of the more rural areas that are served or are proposed to be served by the proponents of the Balanced Consensus Plan.

Consequently, we urge you to give favorable consideration to our requests.

Thank you for your consideration.

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